

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

JUNE 25, 2008

AGENCY MEMBERS PRESENT

Koella, Carl, III, Chair
Caldwell, Gene, M.D.
Collier, David, designee for the TennCare Director
Jones, Clark
Lammert, Gregory
Morris, John, designee for the Commissioner of Commerce and Insurance
Troy, Peggy

AGENCY MEMBERS ABSENT

Atchley, Bryan, Vice Chair
Handorf, Charles, M.D.
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant III
Brogden, Reid, General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, Health Planner III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Wells, Phil, Health Planner III

GUESTS PRESENT

Ambrosius, Paul, Esq., Trauger & Tuke
Andrews, James J., President, Wellington Healthcare
Ashin, Jeffrey, CEO, Mercy Health Systems
Beasley, Ken, MSK Group, PC
Biggs, Jeremy H., Mercy Health Systems
Block, Jake, Associate Medical Director of Radiology, Vanderbilt Medical Center
Brand, Bryan, Vanderbilt University Medical Center
Braswell, David, Benchmark Healthcare, LLC
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry
Brotherton, Matt, Kramer Rayson, PLLC
Brundige, Jennifer, Esq., Farmer & Luna, PLLC
Corritore, Danell, Department of Health
Cross, Cindy S., Esq., Senior Director of Legal Services, Life Care Center of Collegedale
Culp, Joe, Department of Health
Day, Edwin W., Consultant
Duncan, Bruce, National HealthCare Corporation
Elrod, Dan H., Esq., Miller & Martin
Ferraro, S., Bass, Berry & Sims
Gattuso, Frank K., Executive Director, Ave Maria Nursing Home
Gerter, Terry, Life Care Center of Collegedale

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JUNE 25, 2008 MEETING

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Gooch, Warren, Esq., Kramer Rayson
Green, Daniel M., M.D.
Gregory, Luke, Vanderbilt University Medical Center
Harkness, Eric, Division of Health Planning, Tennessee Department of Finance & Administration
Hawk, Renee, Vice President, Cancer Institute, University of Tennessee Medical Center
Hein, Dan, Memphis Ortho Group
Hill, Ronald, Vice President, Vanderbilt University Hospital
Hissam, Hollie, LBMC Healthcare Group, LLC
Houchin, Barbara, Executive Director, St. Thomas Health Services
Huff, John, Vanderbilt University Medical Center
Huggins, Mike, Tennessee Hospital Association
Jones, Robert Riley, M.D., President, Memphis Orthopedic Group
Knight, Harold, Memphis Ortho Group
Leonard, Wyatt
McAfee, Rich, Life Care Center of Collegedale
McDaniel, Charles, Shared Imaging
Morriz, Rick, Life Care Center of Collegedale
Murphy, Sarah, BioImaging at Harding Place, Inc.
Nelson, Larry D., Consultant Architect
Ockerman, Jeff, Director, Health Planning, Tennessee Department of Finance & Administration
Penny, Linda, Comptroller's Office
Price, Ronald, Vanderbilt University Medical Center
Pumphrey, Norene, CEO, Decatur County General Hospital
Rees, Philip M., General Counsel, Wellington Healthcare
Regan, Martin, Esq., Thomason Hendrix Law Firm
Rombach, William, Benchmark Healthcare, LLC
Russell, Richard F., Tennessee Health Care Association
Sells, John M., Benchmark Healthcare, LLC
Stephenson, Kate, Esq., Trauger & Tuke
Sylvia, John B., Regional Director of Planning, Mercy Health Systems
Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap, PLC
Thomas, Gary, Vice President, Compliance, University of Tennessee Medical Center
Thompson, Ann R., RN, BSN, MBA, Director of Licensure, Tennessee Department of Health
Trauger, Byron R., Esq., Trauger & Tuke
Wellborn, John, Development Support Group
Winick, Joseph, Senior Vice President, Planning and Business Development, Erlanger Medical Center
Youngberg, Carla, Life Care Center of Collegedale

Chairman Koella, called the meeting to order at 8:30 a.m. in Room 12, of The Legislative Plaza, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements. Ms. Hill introduced Dr. Collier, the TennCare representative. Ms. Hill announced that the Agency meetings from June through December would be at the Legislative Plaza and that she had requested staff from TennCare to be present at the August meeting to discuss the new Long Term Care Community Choices Act.

OTHER BUSINESS

- 1) State Health Plan – Jeff Ockerman, Director, Division of Health Planning, Tennessee Department of Finance & Administration discussed the status of the development of the state health plan.

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Elite Sports Medicine and Orthopaedic Center - (Nashville, Davidson County) - Project No. CN0803-017

The acquisition of magnetic resonance imaging (MRI) equipment and the initiation of MRI services limited to patients of the physician practice. The project will be located at a satellite practice office on the first floor (suite number unassigned) of the Select Specialty Hospital building on the Baptist Hospital campus. No facility license is required. The project does not contain any other type of major medical equipment or initiate or discontinue any other health service. Project Cost \$1,596,694.00.

Deferred to the July Meeting.

Vanderbilt University Medical Center - (Nashville, Davidson County) - Project No. CN0802-007

The acquisition of a magnetic resonance imaging (MRI) unit to be utilized for diagnosis and treatment of breast conditions. The unit will be housed in the Vanderbilt Breast Center to be located at Vanderbilt Health-One Hundred Oaks campus. The equipment to be purchased is a Philips Achieva XR with the magnet strength of 1.5 Tesla. Project Cost \$2,981,850.00.

Ronald W. Hill, Vice President, Strategic Development, spoke on behalf of the project and Dan Elrod, Esq., representing the applicant, addressed the Agency.

Ms. Troy moved for approval of the project based on: 1) Need – There is definitely a need for the project; 2) Economic Feasibility – The project is financially feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella

NAY: None

One Hundred Oaks Imaging, GP - (Nashville, Davidson County) - Project No. CN0803-013

The establishment of an outpatient diagnostic center (ODC), the initiation of magnetic resonance imaging (MRI) services and the acquisition of a Philips 1.0 Tesla open MRI unit. Project Cost \$6,427,441.00.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Ron Price and Jake Block spoke on behalf of the project. Bryan Brand and Ron Hill were present.

Jennifer Brundige, Esq., representing Medquest, Inc. d/b/a Biolmaging at Harding, Inc. opposed.

Mr. Elrod rebutted.

Summation was waived by the opposition and the applicant.

Dr. Caldwell moved for approval of the project based on: 1) Need – The need is there as this center is being established for Vanderbilt's expansion. They already have the need; 2) Economic Feasibility – The project is economically feasible and is not a problem; and 3) The project does contribute to the orderly development of adequate and effective health care as the One Hundred Oaks' campus will add many doctors. Ms. Troy seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella

NAY: None

Ms. Troy recused

Millington Healthcare Center - (Millington, Shelby County) - Project No. CN0802-006

The addition of nineteen (19)* Medicare skilled beds increasing the licensed nursing home bed complement from sixty-six (66) to eighty-five (85). Project Cost \$91,041.00.

* These beds are subject to 125 Nursing Home Bed Pool for 2007-2008.

James J. Andrews, President, Wellington Healthcare spoke on behalf of the project. Philip M. Rees, General Counsel, Wellington Healthcare was present.

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Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for the additional beds; 2) Economic Feasibility – The project is economically feasible and established with a commercial line of credit; and 3) The project does contribute to the orderly development of adequate and effective health care in that area of Shelby County by providing for those individuals on the waiting list an opportunity to utilize that facility. Mr. Jones seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Ms. Troy recused

Ave Maria Home - (Bartlett, Shelby County) - Project No. CN0803-012

The replacement of the thirty-five (35) bed east wing. The new construction will be four (4) green house homes consisting of ten (10) beds each. The 75 licensed beds will not change as a result of this project. Project Cost \$6,372,052.00.

Martin Regan, Esq., representing the applicant, addressed the Agency. Frank J. Gattuso, Jr., Executive Director spoke on behalf of the project.

Mr. Morris moved for approval of the project based on: 1) Need – The need has been established; 2) Economic Feasibility – The economic feasibility has been established; and 3) The Green House concept will definitely contribute to the orderly development of adequate and effective health care. Mr. Lammert seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Life Care Center of Collegedale - (Collegedale, Hamilton County) - Project No. CN0803-014

The renovation of the facility to eliminate four (4) bed wards, convert some semi-private rooms to private rooms, expand rehab space, and update furnishings and finishes throughout the building. The 124 licensed beds will not change as a result of this project. Project Cost \$8,484,137.00.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Carla Youngberg, Executive Director, spoke on behalf of the project. Cindy S. Cross, Senior Director of Legal Services was present.

Ms. Troy moved for approval of the project based on: 1) Need – The project is definitely needed; 2) Economic Feasibility – The project is financially feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Decatur County General Hospital - (Parsons, Decatur County) - Project No. CN0803-015

The initiation of mobile magnetic resonance imaging (MRI) services up to one (1) day per week. The project does not impact the hospital's licensed bed complement or initiate any other new health service. Project Cost \$243,000.00.

Norene Pumphrey, CEO, addressed the Agency on behalf of the project. John L. Wellborn, Consultant was present.

Mr. Jones moved for approval of the project based on: 1) Need – The need is as presented by the applicant in the presentation, and Decatur County General Hospital is an integral part of the community; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Troy seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

St. Mary's Health System, Inc. d/b/a St. Mary's Medical Center - (Powell, Knox County) - Project No. CN0803-016

The initiation of mobile lithotripsy services on campus. The service will be provided two (2) days per week in an existing operating room. This project does not impact the hospital's licensed bed complement. No other major medical equipment will be involved and no other health services are being proposed. Project Cost \$768,000.00.

Warren L. Gooch, Esq., representing the applicant, addressed the Agency. John B. Sylvia, Regional Director of Planning, spoke on behalf of the project. Present were: Jeremy H. Biggs, Mercy Health Systems and Jeffrey Ashin, CEO, Mercy Health Systems.

Ms. Troy moved for approval of the project based on: 1) Need – There is a need for this project; 2) Economic Feasibility – The project is financially feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Morris seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

University of Tennessee Medical Center - (Knoxville, Knox County) - Project No. CN0803-019

The acquisition of a linear accelerator for service at UTMC. There are no inpatient beds involved. No services are being initiated or discontinued. Project Cost \$4,692,691.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Gary Thomas and Daniel M. Green, M.D., spoke on behalf of the project. Renee Hawk, Vice President, Cancer Institute was present.

Mr. Lammert moved for approval of the project based on: 1) Need – The project meets the need in the area; 2) Economic Feasibility – The project's economic feasibility is met through cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care in the Knoxville area by providing for lower wait times for the patients who need the service. Dr. Collier seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Ms. Troy recused

MSK Group, P.C. - (Memphis, Shelby County) - Project No. CN0803-020

The acquisition of magnetic resonance imaging (MRI) equipment and the initiation of in-house MRI services. Equipment will be leased from Memphis Orthopedic Group, P.C. (MOG) which owns the equipment and currently provides MRI services at its office. The MOG physicians will become shareholders in MSK Group, P.C. (MSK), along with other area physicians in a consolidation of three (3) practice groups. MSK will be the practice group for the physicians. The MRI service will continue to operate in the same location, but the service provider will be MSK. Upon implementation of the service by MSK, the MOG certificate of need (CN0311-099A) will be surrendered. This project is in effect a transfer of the MRI service authorization from MOG to MSK and is not a new MRI coming into the market. There are no inpatient beds involved in this project. As a private physician practice, there is no health care institution licensure involved. Project Cost \$801,175.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Robert Riley Jones, M.D., President, Memphis Orthopedic Group spoke on behalf of the project.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for these services to continue in the county; 2) Economic Feasibility – The project is economically feasible and cash reserves are

available; and 3) The project does contribute to the orderly development of adequate and effective health care by not adding new services but consolidating the services of the three groups to provide care to the community of Shelby County. **CONDITION: Upon the Memphis Orthopedic Group (MOG) physicians becoming shareholders of MSK Group, PC, and upon implementation of the Certificate of Need, Certificate of Need CN0311-099A will be surrendered.** Mr. Jones seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Saint Francis Hospital - (Memphis, Shelby County) - Project No. CN0803-023

The acquisition of a Cyberknife Stereotactic Radiosurgery System to be installed at the hospital's main campus. The Cyberknife is an alternative to, but not a replacement of the linear accelerator radiation oncology services already provided at the hospital, which services will continue to be provided. No inpatient beds are affected by this project. Project Cost \$6,651,513.00.

Deferred to the July Meeting.

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following requests for modifications:

Mr. Jones left the meeting.

SeniorHealth of Rutherford, LLC - (Murfreesboro, Rutherford County) - Project No. CN0610-089A

Request for change of control of the corporation of SeniorHealth, Inc. of the membership interests of SeniorHealth of Rutherford, LLC to its new wholly-owned subsidiary, FenX Healthcare, Inc. As a consequence of the transfer the control of the project will not change from SeniorHealth of Rutherford, LLC and they will continue to develop the project as set forth in the CON application. This project was approved at the February 28, 2007 meeting for the construction and establishment of a sixty (60)-bed general hospital providing medical detoxification, psychiatric and rehabilitation services to serve Rutherford and Bedford counties. The expiration date is April 1, 2010 with a project cost of \$29,893,000.

William H. West, Esq., representing the applicant, addressed the Agency.

Dr. Caldwell moved for approval of the request to change the ownership as described. Ms. Troy seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Koella
NAY: None

Ms. Troy recused.

Mr. Jones returned to the meeting.

Court Manor Nursing Center - (Shelby, Memphis County) - Project No. CN0603-017A

Request for extension of the expiration date for twenty-four months from August 1, 2008 to August 1, 2010 and a \$1,219,988 increase in the project cost from \$9,132,872 to \$10,352,860. This project was approved at the June 28, 2006 Agency meeting for the relocation and replacement of the nursing home and the addition of twenty-two (22) *skilled nursing facility beds for a total of one hundred twenty (120) dually certified skilled nursing home beds. Project Cost \$9,153,420.96.

*These beds were subject to the 125 Nursing Home Bed Pool for 2005/2006.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Mr. Lammert moved for approval of the request for the twenty-four (24) month extension from August 1, 2008 to August 1, 2010 and the project cost increase from \$9,132,872 to \$10,352,860. Mr. Jones seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Arbor Place of Puryear, Inc. - (Puryear, Henry County) - Project No. CN0311-098A

Request for a three (3) month extension of the expiration date from July 1, 2008 to October 1, 2008. This project was approved at the June 23, 2004 Agency meeting for the relocation and replacement of the existing twenty-five (25)-bed dually certified skilled nursing facility and the addition of eleven (11) beds for a total of thirty-six (36) licensed beds. The original expiration date of August 1, 2006 was extended to May 1, 2007 on April 26, 2006, and then extended to July 1, 2008 on March 28, 2007.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Present in support were: William Rombach, Benchmark Healthcare; David Braswell, Benchmark Healthcare; Larry D. Nelson, Consultant Architect; and John M. Sells, Benchmark Healthcare, LLC.

Ms. Troy moved for approval of the extension of the expiration date for twelve (12) months from July 1, 2008 to July 1, 2009. Mr. Jones seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Erlanger East - (Chattanooga, Hamilton County) - Project No. CN0405-047A

Request for extension of expiration date for twenty-four (24) months from December 1, 2008 to December 1, 2010. This project was approved at the October 27, 2004 Agency meeting for the construction of new four (4) story patient tower and other ancillary space; transfer of seventy-nine (79) beds from the main campus to the east campus; initiation of cardiac catheterization and the acquisition of a magnetic resonance imaging (MRI) scanner. This project decreased the main campus beds from 703 to 624 licensed beds and increased the east campus beds from 28 to 107 licensed beds. The project cost was \$68,725,321.

William West, Esq. representing the applicant, addressed the Agency. Joseph M. Winick, Senior Vice President, Planning & Business Development was present.

Mr. Morris moved for approval of the request for the extension of the expiration date for twenty-four (24) months from December 1, 2008 to December 1, 2010. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

Centennial Medical Center at Ashland City - (Ashland City, Cheatham County) - Project No. CN0302-010A

Request to increase mobile magnetic resonance imaging (MRI) services from one (1) day per week to two (2) days per week. This project was approved at the May 28, 2003 Agency meeting for the initiation of mobile MRI services one (1) day per week with an expiration date of July 1, 2006 and project cost was \$252,000.00. The services were implemented June 30, 2003.

Mr. Koella moved to defer the request to the July meeting. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0] by unanimous voice vote. **DEFERRED**

AYE: Morris, Troy, Lammert, Caldwell, Collier, Jones, Koella
NAY: None

MINUTES

The minutes of the May 28, 2008, meeting was accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab